

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Petition of USTelecom for Forbearance Pursuant to)	WT Docket No. 18-141
47 U.S.C. § 160(c) to Accelerate Investment in)	
Broadband and Next-Generation Networks)	

**REPLY COMMENTS OF FRONTIER COMMUNICATIONS
CORPORATION**

Frontier Communications Corporation (“Frontier”) submits these comments in the above captioned proceeding to underscore its support for USTelecom’s Petition, as modified by the agreement with Windstream,¹ and to highlight the level of industry agreement (and lack of meaningful dissent) to transition away from imposing unbundled network element (“UNE”) obligations on just one class of competitor – incumbent LECs. After the initial comment round, there is little serious disagreement that a transition from UNEs is merited. To be sure, as in any story of technological change, there is still some number of late adopters – here, smaller asset-light providers claiming that a granular market-by-market analysis is necessary or that UNE rules may help them as competitors in certain areas of the country. But UNEs have so long outlived their original purpose – to promote a bridge to facilities-based investment – that a wide swath of UNE purchasers and sellers is in agreement regarding a transition from UNEs.² With this level of agreement, the Commission can expeditiously grant the petition and incentivize a transition to next-generation investments.

In 2018, given significant technological changes in the past 22 years and with any semblance of incumbent LEC dominance or monopoly power long since passed, a planned

¹ See Letter from USTelecom to Marlene Dortch, Docket No. 18-141 (June 21, 2018).

² See *id.*

transition from an unbundling requirement on just incumbent LECs is long overdue. While at the time of the 1996 Act and the adoption of UNE obligations incumbent LECs had virtually 100% market share, the number of U.S. households subscribing to an incumbent LEC voice line is projected to fall close to 10 percent by year-end 2018.³ During these market changes, the Commission has proceeded to find that incumbent LECs are non-dominant in residential voice service,⁴ and in business data services in areas covering the vast majority of Americans.⁵ And the Commission has done so without relying on UNEs in those analyses. The next natural step is to end UNEs, an incredibly intrusive market intervention imposed on just one type of competitor.

Despite widespread competition in the telecommunications and these previous findings of non-dominance, asset light providers assert various claims in an effort distract from the straightforward analysis under the forbearance test. For instance, certain parties claim the Commission should follow an impairment test under 47 U.S.C. § 251(d)(2)(B) rather than the more general and entirely appropriate forbearance test, which the Commission followed most recently in the *BDS Order*. At the highest level, the Commission’s analysis under the forbearance test, which applies generally to the § 251 UNE obligations, is simple: wireless, cable, and facilities-based competitive LECs have created a robustly competitive market for telecommunications services and enforcing intrusive unbundling obligations on just one set of

³ Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, WC Docket No. 18-141 at 8 (May 4, 2018) (“*Petition*”) (explaining that just 11% of U.S households are expected to subscribe to incumbent LEC switched voice service by year-end 2018).

⁴ See *USTelecom Petition for Declaratory Ruling that Incumbent Local Exchange Carriers are Non-Dominant in the Provision of Switched Access Services*, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283 (2016).

⁵ See *Business Data Services in an Internet Protocol Environment et al.*, Report and Order, 32 FCC Rcd 3459 (2017) (“*BDS Order*”),

market competitors undermines the public interest. Similarly, some carriers claim that UNEs promote rural deployment, but as Frontier has explained previously, Frontier sees very little CLEC ordering in rural areas.⁶ To the extent there is any such ordering, these orders are for business locations and could be served by at least one other facilities-based provider in addition to Frontier.⁷ Likewise, some commenters claim that UNEs are important for broadband deployment, but of course, the forbearance test and the underlying UNE provisions apply to telecommunications services, not broadband.

Conclusion

As shown by the record and the lack of real substantive disagreement from major industry players, including many of the largest purchasers of UNEs, expeditiously granting the USTelecom Petition will end intrusive market-distorting regulation, incentivize next-generation facilities-based investment, and promote the public interest.

Respectfully submitted,

/s/ AJ Burton

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⁶ *Ex Parte* Letter from AJ Burton, Frontier Communications, to Marlene Dortch, FCC, Docket No. 18-141 (July 11, 2018).

⁷ *Id.*